

BOARD OF PAROLE HEARINGS

P.O. BOX 4036
SACRAMENTO, CA 95812-4036
(916) 445-4072



February 02, 2018

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YOLO
301 2ND ST.
WOODLAND, CA 95695

Subject: **NONVIOLENT PAROLE REVIEW DECISION**

Inmate's Name : SAMARO, ARTHUR,FERNANDO
CDCR# : AT3160
Location : Avenal State Prison
Court Case# : CRF140575

The above inmate was referred to the Board of Parole Hearings under the Nonviolent Parole Review Process. The board has approved the inmate for release. Enclosed is a copy of the board's decision.

Please direct any inquiries concerning the inmate to the institution where the inmate is housed.

Respectfully,

BOARD OF PAROLE HEARINGS
NV Processing Unit

NONVIOLENT DECISION FORM

NONVIOLENT INFORMATION

Inmate Name: SAMARO, ARTHUR,FERNANDO
CDCR Number: AT3160
Institution: Avenal State Prison

BPH DECISION

JURISDICTIONAL REVIEW

- BPH does not have jurisdiction, no further review.
 BPH has jurisdiction.

REVIEW ON THE MERITS

- Recommendation to release approved.
 Recommendation to release denied.

Decision based on the reasons stated below:

Decision

When considering together the findings on each of the four factors of Mr. Samaro's case, both aggravating and mitigating, they show he does not pose an unreasonable risk of violence to the community. Release is approved.

Case Factor #1 Commitment Offense(s)

Mr. Samaro's current commitment offense aggravates his current risk of violence.

On 4/17/14, Mr. Samaro pursuant to a plea agreement was sentenced to 9 years for Inflict Corporal Injury on Spouse/Cohabitant PC273.5(a).

On January 30, 2014, the victim requested to speak with an officer regarding Mr. Samaro who was demanding she leave their residence. Victim indicated Mr. Samaro had occasions causing visible injuries including black eyes and visible bruising on her body. On 11/13/14, Mr. Samaro punched her repeatedly in the face causing swelling and bruising. She indicated the reason she never reported violent incidents was her fear the violence will increase.

This author notes there is only one conviction and Mr. Samaro did not personally use a deadly weapon both mitigating circumstances. However, after careful review and consideration of the aggravating and mitigating circumstances in the current commitment offense, the following aggravating circumstances make this an aggravating factor in the case:

- The victims suffered physical injury.

Therefore, the current crime is found to be an aggravating risk factor in this case.

Case Factor #2 Prior Criminal History

Mr. Samaro's prior criminal history began in 1999 and continued until the commitment offenses in 2014. Mr. Samaro's prior criminal record is a factor mitigating his current risk of violence. Mr. Samaro has the following 3 adult criminal convictions:

- 1999 Criminal Threats PC 422
- 2005 Assault with Force Likely to Produce GBI PC245(a)(1) with Street Gang Act PC186.22(b)(1)
- 2009 Grand Theft Property PC484(a)

The circumstances of his prior criminal record that aggravate his current risk of violence are:

- Mr. Samaro was incarcerated for a felony conviction within 5 years prior to his current convictions noting he was released from CDCR on County Supervision on 4/15/12, and returned to CDCR on his current commitment on 5/1/14.
- Mr. Samaro's prior criminal convictions coupled with his current conviction show a pattern of assaultive behavior and a pattern of similar conduct that decreased in severity in 2009 but increased in severity with the commitment offense.

The circumstances of his prior criminal record that mitigate his current risk of violence are:

- Mr. Samaro has not been convicted of a violent felony as defined in subdivision (c) of section 667.5 of the Penal Code in the past 15 years.

When balancing the aggravating circumstances against the mitigating circumstances, they tend to show the circumstances of his prior criminal record aggravate his current risk. Great weight is given to his pattern of criminal conduct noting a threat of violence in 1999, an assault in 2005 thereby decreasing in 2009; culminating with an increase in violence as indicated by the domestic violence in 2013/2014.

Case Factor #3 Institutional Adjustment

Mr. Samaro has been incarcerated for the commitment offense in CDCR since 5/1/14, a period of approximately 45 months.

The following circumstances of Mr. Samaro's institutional behavior, work history, and rehabilitative programming mitigate his current risk of violence:

- Mr. Samaro has not been found guilty of institutional rules violation reports resulting in physical injury and threat of physical injury since his last admission to prison.
- There is no reliable information in the confidential section of his central file indicating Mr. Samaro has engaged in criminal activity since his last admission to prison.
- Mr. Samaro has successfully participated in a work assignment/vocation for a sustained period of time. Currently, Mr. Samaro is working as an administrative porter. On 1/23/17 he completed vocational welding. Early in his incarceration Mr. Samaro worked in the dining room, and as an inmate labor. In addition, he participated in adult basic education and vocational electronics.
- Mr. Samaro has successfully participated in rehabilitative and self-help programming to address the circumstances that contributed to his criminal behavior including substance abuse and criminality, for a sustained period of time. Mr. Samaro has attended AA since 3/1/16 and Criminal Gangs Anonymous since 5/5/16. He participated in domestic violence programming via the Turning Point Program in addition to Victim Awareness. Currently he attends faith-based groups.

As there are no aggravating circumstances, the mitigating circumstances tend to show Mr. Samaro's institutional behavior, rehabilitative efforts and work history, mitigate his current risk of violence.

Case Factor #4 Legal Notices

There were responses to the Legal Notices. Mr. Samaro submitted a letter dated 1/4/18 in support of release. In addition to his letter he submitted an anger relapse prevention plan, drugs/alcohol relapse prevention plan, an apology letter to the victim, certificates and a well detailed parole plan. The Yolo County District Attorney's Office submitted a letter dated 1/23/18 opposing release. This information was reviewed and considered in this decision.

Conclusion

When considering each of the aforementioned four criteria documented above and taking into account the totality of the circumstances, including the passage of time coupled with his positive institutional programming, these factors mitigate his current risk of violence.

Great weight is given to the passage of time noting the commitment offense was 4 years ago coupled with Mr. Samaro's extensive programming including vocational training, substance abuse treatment and most important domestic violence and victim impact self-help. His programming indicates ongoing rehabilitation. This author notes Mr. Samaro received multiple Milestone credits and recently Rehabilitative Achievement Credits.

The lack of actual violence for 4 years coupled with his positive programming, indicate Mr. Samaro does not pose a current risk of violence. Mr. Samaro is approved for release.



FEBRUARY 1, 2018

SIGNATURE

REVIEW DATE

FLEMING, KAREN

NAME

If you believe this decision contains an error of fact, an error of law, or if you have additional information you believe would change the outcome of this decision, you may request that it be reviewed by the Board of Parole Hearings by sending a written request to:

Board of Parole Hearings
Attn: Nonviolent Parole Review
P.O. Box 4036
Sacramento, CA 95812-4036

Your request must be post marked within 30 calendar days from the date you received this decision and your request must include a brief statement explaining why you believe the decision is wrong. You may include additional information to support your request.